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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,951	02/08/2000	TATSUO J. CHIGIRA	B208-1076	1936

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ROBIN BLECKER & DALEY  
2ND FLOOR  
330 MADISON AVENUE  
NEW YORK, NY 10017

EXAMINER

NGUYEN, KEVIN M

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/499,951

Applicant(s)

CHIGIRA, TATSUO J.

Examiner

Kevin M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/12/2002 has been entered. An action on the RCE follows:

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 2/8/2000. It is noted, however, that applicant has not filed a certified copy of the 09/499,951 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

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published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 7 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kobayashi et al (US 6,441,978).

As to claims 1, 7 and 10, Kobayashi et al '978 teach a head mounted display device (HMD) which includes an upper portion of the main frame 10M that is a coupling mechanism 10C (holding member as claimed, figure 4, col. 10, lines 55-56); the optical prism 1 is reliably positioned relative to one another in the forward/rearward, transversal and vertical directions (said display part being rotatable in forward and reverse directions as claimed, col. 12, lines 52-55);

the left and right rear frame 10L and 10R are coupled to the main frame 10M by flexible coupling mechanisms. The left and right rear frames 10L and 10R are hinged by the hinges 10Lh and 10Rh which serve as the coupling mechanisms to the main frame 10M (col. 11, lines 27-33);

the main frame 10M includes a head push member 10F (mount pad) which is held in forced contact with front head portion 2F (col. 11, lines 1-2); the frame 10 is held at a prescribed position relative to the head of the viewer M by elastic forces of itself as a whole (said head mounted display apparatus being capable of being mounted and held on the forehead of the user by pressing the mount pad to the forehead of the user and pressing a back part of the user's head by an elasticity of said side frames as claimed, col. 11, lines 7-9).

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5. Claims 1, 7 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kobayashi et al (US 6,330,121).

As to claims 1, 7 and 10, Kobayashi et al teach a head mounted display device (HMD) which includes an upper portion of the main frame 10M that is a coupling mechanism 10C (holding member as claimed, figure 2, col. 12, lines 1-2); display part 41 is rotatable inherently in forward and reverse directions as claimed (figure 2);

the left and right rear frame 10L and 10R are coupled to the main frame 10M by flexible coupling mechanisms. The left and right rear frames 10L and 10R are hinged by the hinges 10Lh and 10Rh which serve as the coupling mechanisms to the main frame 10M (col. 12, lines 37-43);

the main frame 10M also has a forced contact front head support member 10F (mount pad) which is forced contact with the front head part 2F (col. 11, lines 1-2); the frame 10 is adapted to be restricted in position relative to the head part of the man M who wears it by the elastic force of its entirety (said head mounted display apparatus being capable of being mounted and held on the forehead of the user by pressing the mount pad to the forehead of the user and pressing a back part of the user's head by an elasticity of said side frames as claimed, col. 12, lines 18-22).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 2-6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al (US 6,330,121) in view of Kuenster et al (US 6,157,291).

As to claim 2, Kobayashi et al '121 teach the side frames including elastic force the left and right rear frames 10L and 10R are formed by using a plastic material among polyamide, polycarbonate... (wherein each of said earphone holding members is composed of a elastic body fixed to a lower side of each said side frames and is arranged to hold, with an elastic force, a stem part of each of the earphones inserted into said elastic body as claimed, col. 12, lines 25-30), Kobayashi et al '121 fail to teach earphone holding members arranged on said side frame to hold earphones;. However, Kuenster et al teach a related HMD which includes the earphone retainers 36, 37 are removably also be removed from the temples 20 and 21 (figure 1, col. 5, lines 10-12).

With this arrangement, it is possible to ensure accuracy of mounting positions by utilizing the pluralities of mounting positions for mounting various related members. In addition, the arrangement permits imparting the optical prism with composite functions as desired (col. 13, lines 1-5).

Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the earphone holding members taught by Kuenster et al in Kobayashi et al's HMD because this would allow a users to utilize different earphones that are connectable with the earphone jacks of the system (col. 5, lines 13-15 of Kuenster et al).

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As to claims 3 and 9, Kuenster et al '121 teach the wires 40 and 41 of the earphones 38 and 39 being retained adjacent to the temples 20 and 21 by hooks formed integrally with the hinges 34 and 35 (col. 5, lines 4-5).

As to claim 4, Kobayashi et al teach the left and right rear frames 10L and 10R being hinged by the hinges 10Lh and 10Rh which serve as the coupling mechanisms to the main frame 10M (col. 12, lines 37-43). It would have been obvious to a person of ordinary skill in the art at the time of the invention to be foldable inward.

As to claims 5, 6 and 8, Kobayashi et al '121 and '978 teach the side frames including elastic force the left and right rear frames 10L and 10R being formed by using a plastic material among polyamide, polycarbonate...(inherently having a hole communicating with said inserting hole is formed also in said elastic member as shown in figure 2 and figure 4 (col. 12, lines 25-30).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kevin M. Nguyen** whose telephone number is **703-305-6209**. The examiner can normally be reached on MON-THU from 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard A Hjerpe** can be reached on **703-305-4709**.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231


**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Kevin M. Nguyen  
Examiner  
Art Unit 2674



RICHARD HUESPE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600